

REMARKS/DISCUSSION OF ISSUES

Claims 1-14 are pending upon entry of the present amendment, with claims 1 and 9 being the independent claims.

Amendments to the Specification

The amendments to the specification canceling two paragraphs on page 3 do not constitute new matter. Entry of these amendments is respectfully requested.

New Claims

New claims 10-14 depend from claim 9 and include subject matter disclosed in the filed application. Substantive examination is respectfully requested.

Claim Objections

Claim 1 is objected to for not defining a clear preamble, transition and claim body. No statutory or regulatory basis for this objection has been provided. Such basis is respectfully requested.

The above notwithstanding, it is respectfully submitted that the claim includes a preamble, a transitional term and a claim body. To wit, claim 1 recites:

"A synchronous TDD system for the transmission of speech and/or data between a master unit (FP) and at least two slave units (PP1, PP2) which are associated with the master unit (FP), the master unit (FP) including...

Notably, the term 'including' is often used in place of the term 'comprising.'

Claim Rejections - 35 U.S.C. § 102

In the Office Action dated January 14, 2005 (hereinafter Office Action), claims 1, 2, 7 and 9 were rejected under 35 U.S.C. § 102(b) as being anticipated by *Chieu, et al.* (U.S. Patent 5,515,366). For at least the reasons that follow, claims 1 and 9 are patentable over the applied art.

The establishment of a *prima facie* case of anticipation under 35 U.S.C. § 102(b) requires that *all* of the elements of a claim be found in a single reference. It follows that if a single element of a claim is missing from the applied reference, a *prima facie* case of anticipation cannot be properly established.

1. Claim 1 is drawn to a synchronous TDD system that includes a master unit (e.g., FP) and at least two slave units (e.g., PP1, PP2). Claim 1 features:

"...the receiving means of the slave units (PP1, PP2) allocating fixed time slots which are not used for a transmission of synchronization signals they are ready to receive or fixed time slots they are ready to receive with a setting which does not allow the reception of signals from the master unit (FP)..."

Claim 9 includes a similar feature.

In the portion of the rejection germane to the referenced feature of claim 1, the Office asserts: "Referring to Figure 5A, in step 110, [the primary portable unit] listens for an acknowledgement packet AP transmitted by the base station channel during a second predetermined period of time, Tpr." (Kindly refer to page 3 of the Office Action dated January 14, 2005.)

The portion of the reference to *Chieu, et al.* relied upon relates to the sequence of a handshaking operation between two portable units routed through the base station. However, the sequence lacks at least the featured *fixed time slots they are ready to receive with a setting which **does not allow the***

reception of signals from the master unit (FP). To this end, reference to *Chieu, et al.* discloses the transmission of a calling packet CP by the primary portable unit during a first period of time and the listening for an acknowledgement packet AP transmitted by the secondary portable unit in the base station channel during a second predetermined period of time. However, the reference does not disclose that the preclusion of reception of signals by the master unit, as set forth in claim 1. Therefore, it is respectfully submitted that the reference to *Chieu, et al.* lacks the disclosure of at least one feature of independent claim 1. By similar analysis, it is respectfully submitted that the reference to *Chieu, et al.* lacks the disclosure of at least one feature of independent claim 9. (Kindly refer to column 6, lines 47-55 for support for the above assertion.)

Because the reference to *Chieu, et al.* lacks the disclosure of at least a single feature of claim 1, the reference cannot serve to establish a prima facie case of anticipation. By similar rationale, the reference cannot serve to establish a prima facie case of anticipation of claim 9. Thus, a prima facie case of anticipation has not been properly established. It is respectfully requested that the rejection of claims 1 and 9, and the claims that depend therefrom in view of *Chieu, et al.* be withdrawn.

2. The Office Action asserts that certain features of claims 1 and 9 are inherent to the applied art. These assertions of inherency are respectfully traversed.

The Office asserts that the reference *Chieu, et al.* discloses ‘...in step 108, the primary portable unit transmits in the base station channel a calling packet CP during a first predetermined period of time, TPS, inherently during the period of time when reception of signals from the master unit is not enabled, for establishing communication between the portable units.’ (Kindly refer to page 3 of the Office Action).

In addition, in the substantive rejection of claim 9, the Office asserts that “...the base station 2 transmits in time slot S a synchronization and exchange of

identification and control data to the portable units 4, inherently utilizes by the portable units 4 for synchronization.” (Kindly refer to page 4 of the Office Action.)

Moreover, the Office asserts that “...in step 110, [the primary portable unit] listens for an acknowledgement packet AP transmitted in the base station channel during a second period of time, Tpr, inherently impossible to receive signals from the base station during this period.” (Kindly refer to page 4 of the Office Action.)

Furthermore, at page 5, the Office Action states “...in step 108 the primary portable unit transmits in the base station channel a calling packet CP during a first predetermined period of time, TPS, inherently during the period of time when reception of signals from the master unit is not enabled, for establishing communication between the portable units.”

To establish inherency, the extrinsic evidence must make clear that the missing descriptive matter is **necessarily present** in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing **may** result from a given set of circumstances is not sufficient.

It is respectfully submitted that sufficient evidence in support of the assertions of inherency has not been provided. If the assertions of inherency set forth in the Office Action are based on personal knowledge of the Examiner, an affidavit under 37 CFR § 1.104(d)(2) is respectfully requested. Otherwise, some other form of suitable extrinsic evidence in support of this assertion is respectfully requested. If evidence in support of the assertions of inherency are not provided it is respectfully submitted that the rejections based on inherency be withdrawn.

Accordingly, for at least the reasons set forth above, it is respectfully submitted that the rejections of independent claims 1 and 9, and the claims that depend from these independent claims are improper and should be withdrawn.

Claim Rejections- 35 U.S.C. § 103(a)

In the Office Action claims 3, 6 and 8 were rejected under 35 U.S.C. § 103(a) as being unpatentable in view of *Chieu, et al.* and *Magana, et al.* (U.S. Patent 5,959,326).

Claims 3, 6 and 8 depend from claim 1, which for the reasons set forth above is patentable over the applied art. As such, these claims are patentable over the applied art. Accordingly, and while in no way conceding to the propriety of the combination of references nor to the rejection, Applicants respectfully submit that claims 3, 6 and 8 are patentable over the applied art.

Conclusion

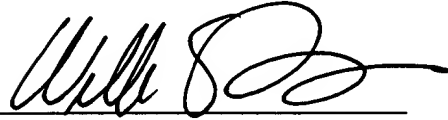
In view of the foregoing, Applicants respectfully request that all rejections of record be withdrawn, that all pending claims be allowed, and that the application be passed to issue.

Except as otherwise stated in the above noted Remarks, Applicant notes that each of the amendments have been made to place the claims in better form for U.S. practice, not to distinguish the claims from prior art references, otherwise narrow the scope of previously pending claims or comply with other statutory requirements.

If any points remain in issue, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and further replies to charge payment or credit any overpayment to Deposit Account Number 50-0238 for any required fees, including but not limited to those fees under 37 C.F.R. §1.16 or under 37 C.F.R. §1.17.

Respectfully submitted on behalf of
Philips Intellectual Property and Standards

A handwritten signature in black ink, appearing to read 'William S. Francos', is written over a horizontal line.

by: William S. Francos, Esq.

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